



107620,557

fee code
1455 JWB

Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/17 (12-04v2)
Approved for use through 7/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	Patent#: 6,942,823B2
TOTAL AMOUNT OF PAYMENT		Filing Date	Issued: September 13, 2005
(\$)		First Named Inventor	Kazunori TERADA
200.00		Examiner Name	M. T. Kopec
		Art Unit	1751
		Attorney Docket No.	0216-0490P

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☐ Deposit Account Deposit Account Number: 02-2448 Deposit Account Name: Birch, Stewart, Kolasch & Birch, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☐ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>
_____ - 20 = _____	x _____	= _____		<u>Fee (\$)</u> <u>Fee Paid (\$)</u>
<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	
_____ - 3 = _____	x _____	= _____		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	/50	_____ (round up to a whole number) x	_____	_____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 1455 Filing an application for patent term adjustment 200.00

SUBMITTED BY			
Signature		Registration No. (Attorney/Agent)	32,881
Name (Print/Type)	John W. Bailey	Telephone	(703) 205-8000
		Date	October 14, 2005



DAC
\$

Docket No.: 0216-0490P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventorship:
Kazunori TERADA et al.

Patent No.: 6,942,823

Confirmation No.: 9249

Issued: September 13, 2005

Art Unit: 1751

For: CONDUCTIVE MASTERBATCH AND
CONDUCTIVE RESIN COMPOSITION

Examiner: M. T. Kopec

**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER § 1.705**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentee notes that the 24 days of Patent Term Adjustment (PTA) as indicated on the cover page of the above-identified patent disagrees with Patentee's own calculation of PTA.

The calculation of PTA days should be 150 days in credits and 94 days in debits resulting in a PTA of:

56 days.

Patentee now discusses the basis for the finding of 56 days patent term adjustment.

10/18/2005 MBEYENE2 00000004 6942823

01 FC:1455

200.00 0P

1) Patent Term Adjustment (USPTO delay):

At the time the original Issue Notification was mailed (January 27, 2005) the PTA of 132 days was calculated. Patentee agrees that the figure of 132 days PTA was correct at that time. Subsequent to the mail date of the notification, the USPTO has added an additional 18 days to their PTA calculation for failing to timely issue the patent. The total patent term adjustment based on USPTO delay is therefore +150 days.

2) Patent Term Adjustment (applicant delay):

On April 26, 2005 an amendment under §1.312 was filed to correct errors in the application. According to the patent rules, patent term adjustment will be reduced for the filing of an amendment under 1.312 after a notice of allowance by the lesser of:

- (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or*
- (ii) Four months." See §1.704(c)(10).*

The USPTO mailed a response to the 1.312 amendment on July 22, 2005. The time difference between Patentee's filing of the 1.312 amendment and the USPTO response was 88 days. Accordingly, Patentee believes that the patent term should be reduced by 88 days in this instance. However, the **USPTO has incorrectly calculated this at 120 days.**

In addition, an information disclosure statement was filed on April 20, 2005 (6 days before the 1.312 amendment) reducing patent term adjustment by an additional 6 days. As a result, the total patent term reduction (applicant delay) should be -94 days.

3) Total Patent Term Adjustment:

Based on the foregoing, the correct PTA for this application should be equal to the +150 days of USPTO delay less the -94 days of applicant delay for a total PTA of +56 days.

Applicants enclose a copy of the calculation for PTA using commercially available software which concurs that the PTA is +56 days and is to be considered as a more complete statement of facts and part of this Request.

Patentee hereby requests that the U.S. Patent Office correct the calculation of the Patent Term Adjustment for the present Application to **56 days**.

The present application ☐ is; ☒ is not subject to any Terminal Disclaimer and any expiration date specified in a Terminal Disclaimer (§ 1.705(b)(2)(iii)).

☐ The following circumstances arose during prosecution of the above-identified application that constitute a failure to engage in reasonable efforts to conclude processing of examination of the application (§ 1.705(iv)(A)): _____.

or

☒ There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application (§ 1.705(iv)(B)).

PAYMENT OF FEES (check one box)

☒ A check in the amount of \$200.00 is enclosed for the consideration of this Request as required by 37 C.F.R. § 1.18(e).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: October 14, 2005

Respectfully submitted,

By 

John W. Bailey

Registration No.: 32,881

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Rd., Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

Attached: Printout of PTA calculation

Analysis Summary Report



APPLICATION INFORMATION			
Docket Number:	0216-0490P	Analysis Generated:	10/06/2005 05:08:18 PM ET
Application Number:	10/620,557	User Name:	Whetstone, LaVerne
Filing Date:	07/17/2003	Firm/Company Name:	Birch Stewart Kolasch & Birch, LLP
Title/Inventors:	CONDUCTIVE MASTERBATCH AND CONDUCTIVE RESIN COMPOSITION; Kazunori Terada, Sodegaura-shi, (JP)		Attorney/Agent Comments:

AIPA TERM ANALYSIS SUMMARY	
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):	07 / 17 / 2003
Filing Date (US National Application):	07 / 17 / 2003
Net Adjustment Credits:	150 Days
Net Adjustment Debits:	94 Days
Net Patent Term Adjustment:	56 Days
AIPA Patent Term End Date:	09 / 11 / 2023 (1)
(1) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 07/17/2023.	

RULE APPLICATION SUMMARY					
Event	Rule Invoked	Related Event	Excluded Days	Debit Days	Credit Days
A 07/17/2003 Filing Date under 35 USC 111(a) (US National Application)	14-Month PTO First Action PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a)(1).	<i>First PTO Action:</i> 01/27/2005 Notice of Allowance under 35 USC 151	0	0	132
	3-Year PTO Issue of Patent PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b). You have elected to analyze this rule under the PTO Exclusion Interpretation, but this election did not affect the number of credit days under this rule.	<i>Issue Date:</i> 09/13/2005 Issue Date	0	0	0
B 07/17/2003 Filing Date under 35 USC 111(a) (US National Application)	3-Month Applicant Response to Notice of Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b). Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.	<i>Applicant Response:</i> 01/29/2004 Response to Notice to File Missing Parts	0	0	0
C 11/26/2003 Notice to File Missing Parts (nonprovisional application)					

D	01/27/2005 Notice of Allowance under 35 USC 151	<p>3-Month Applicant Response to Notice or Action</p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	Applicant Response: 04/26/2005 Issue Fee Payment under 35 USC 151	0	0	0
E	04/20/2005 Information Disclosure Statement	<p>Amendment or Paper after Notice of Allowance (IDS)</p> <p>Period of adjustment (credits) shall be reduced where applicant submits an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed, for the period beginning on the date the amendment or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment or such other paper; or (ii) 4 months, whichever is less. 37 CFR 1.704(c)(10).</p> <p>A paper containing only an IDS in compliance with 37 CFR 1.97 and 1.98 will not generate a reduction if accompanied by a statement that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS. This 30 day period is not extendable. 37 CFR 1.704(d).</p> <p>You have elected to analyze this rule under the PTO Interpretation. Both interpretations produce the same result.</p> <p>You have indicated that no statement under 37 CFR 1.704(d) was included with this IDS.</p>	Notice of Allowance: 01/27/2005 Notice of Allowance under 35 USC 151	0	94	0
F	04/26/2005 Amendment after Notice of Allowance under 37 CFR 1.312	<p>Amendment or Paper after Notice of Allowance</p> <p>Period of adjustment (credits) shall be reduced where applicant submits an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed, for the period beginning on the date the amendment or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment or such other paper; or (ii) 4 months, whichever is less. 37 CFR 1.704(c)(10).</p> <p>You have elected to analyze this rule under the PTO Interpretation. Both interpretations produce the same result.</p>	Office Action or Notice in Response: 07/22/2005 Response to Amendment after Notice of Allowance	0	88	0

4-Month PTO Issue of Patent						
G	04/26/2005 Issue Fee Payment under 35 USC 151	PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credits) begins on the day after the date that is 4 months after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. 35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).	Issue Date: 09/13/2005 Issue Date	0	0	18
H	04/26/2005 Applicant Letter (unknown purpose)	<p>Amendment or Paper after Notice of Allowance</p> <p>Period of adjustment (credits) shall be reduced where applicant submits an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed, for the period beginning on the date the amendment or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment or such other paper; or (ii) 4 months, whichever is less. 37 CFR 1.704(c)(10).</p> <p>You have elected to analyze this rule under the PTO Interpretation. Both interpretations produce the same result.</p>	Notice of Allowance: 01/27/2005 Notice of Allowance under 35 USC 151	0	88	0
			Office Action or Notice in Response: 07/22/2005 Response to Amendment after Notice of Allowance			
			Total Exclusion, Debit, and Credit Days			
Overlap Days				0	176	0
Net Exclusion, Debit, and Credit Days				0	94	150†
Net Patent Term Adjustment Days				56		
The term of this patent ends on 09/11/2023 (2)						
(2) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 07/17/2023.						
†Net credits were not limited by 37 CFR § 1.703(f) "Actual Delay" limitation. See calculation below.						

37 CFR § 1.703(f) "ACTUAL DELAY" CALCULATION				
	Credit Days During Exclusionary Periods	Credit Days During Non-Exclusionary Periods		All Other Rules
		Three-Year Issue Guarantee		
Net Credit Days	0	0		150

Maximum Credit Days under 37 CFR § 1.703(f) "Actual Delay" Limitation	150
---	-----